

<sup>2</sup> The Board notes that appellant submitted evidence with her appeal to the Board. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before OWCP at the time of its final decision. 20 C.F.R. § 501.2(c); *see Steven S. Saleh*, 55 ECAB 169 (2003).

### **FACTUAL HISTORY**

On August 20, 2015 appellant, then a 49-year-old customer service representative, filed a traumatic injury claim (Form CA-1) alleging that on August 6, 2015 she sustained an injury to her right arm and shoulder in the performance of duty. She explained that her injury occurred when she attempted to pull open the third floor exit door which was not working properly. Appellant indicated that the door was heavy, and when she pulled it she felt a pull and stretch on her shoulder. The employing establishment controverted the claim and argued that the story did not match and advised that she was on her break. Appellant stopped work on August 12, 2015.

In an August 25, 2015 letter, OWCP advised appellant that additional factual and medical evidence was needed. It requested that she further explain how the injury occurred. OWCP also explained that a physician's opinion explaining how the reported work incident caused or contributed to appellant's condition was crucial to her claim.

OWCP received August 12 to September 21, 2015 records from nurse practitioners who noted appellant's treatment and history. Appellant was advised to return to limited duty on September 16, 2015. OWCP also received an August 14, 2015 employing establishment memorandum which advised appellant that she and other seasonal employees would be furloughed effective August 22, 2015 due to lack of work.

Also submitted was an August 20, 2015 report of occupational injury, illness, accident, or unsafe condition filed by appellant which noted an injury at the third floor elevator lobby on August 6, 2015 when she tried to open a door with her right hand. Appellant noted that she was a seasonal employee who would be furloughed on August 21, 2015. Her supervisor advised that she informed him of the injury on August 7, 2015. He stated that corrective action was taken to repair the door. OWCP received witness and supervisor statements regarding the August 6, 2015 work incident. It also received e-mail correspondence from the employing establishment discussing the door, which was reported as "broken and causing injuries to employees."

In a September 22, 2015 form report, Dr. Liberto Colombo, an osteopath specializing in preventive medicine, noted seeing appellant on September 16, 2015. He diagnosed a right shoulder injury. Dr. Colombo checked the box marked "yes" that the injury was "work related." In response to whether appellant had objective relevant medical findings, he checked the box marked "no." Dr. Colombo also responded "no" with regard to whether there was a preexisting condition contributing to the medical disorder. He requested authorization for referral to an orthopedist as he suspected a tear in the distal supraspinatus tendon.

By decision dated October 5, 2015, OWCP accepted that the incident occurred as alleged. However, it denied appellant's claim, as she had not established an injury causally related to the accepted work incident. It found that the evidence did not demonstrate a claimed medical condition causally related to established work-related events.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United

States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>3</sup> and that an injury was sustained in the performance of duty.<sup>4</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>6</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>8</sup>

### ANALYSIS

Appellant alleged that on August 6, 2015 she sustained an injury in the performance of duty to her right arm and shoulder when she pulled open a broken door. OWCP accepted that the incident occurred as alleged, but denied the claim as she had not established an injury causally related to the accepted incident.

The Board finds that the medical evidence is insufficient to establish that the accepted work incident caused an injury. The medical evidence contains no reasoned, explanation of how the August 6, 2015 employment incident caused, or aggravated an injury.<sup>9</sup>

In a September 16, 2015 report, Dr. Colombo diagnosed a right shoulder injury. He checked the box marked “yes” that the injury was “work related.” The Board has found that the checking of a box marked “yes” in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.<sup>10</sup> Dr. Colombo did not indicate an awareness of

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<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *Julie B. Hawkins*, 38 ECAB 393, 396 (1987).

<sup>7</sup> *Id.* For a definition of the term “traumatic injury,” see 20 C.F.R. § 10.5(ee).

<sup>8</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>9</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>10</sup> See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

the employment incident<sup>11</sup> and he advised that there were no objective medical findings. He did not otherwise explain how the August 6, 2015 incident caused or aggravated a diagnosed medical condition. This report is of limited probative value and insufficient to establish causal relationship.

OWCP also received records from nurse practitioners involved in appellant's care. This evidence, however, has no probative value as nurse practitioners are not considered physicians as defined under FECA.<sup>12</sup>

Because the medical reports submitted by appellant do not address how the August 6, 2015 activities at work caused or aggravated a right arm/shoulder condition, these reports are of limited probative value<sup>13</sup> and are insufficient to establish that the August 6, 2015 employment incident caused or aggravated a specific injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a traumatic injury in the performance of duty on August 6, 2015.

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<sup>11</sup> See *John D. Jackson*, 55 ECAB 465 (2004) (the accuracy and completeness of the physician's knowledge of the facts and medical history are among the factors that determine the weight to be given each individual report).

<sup>12</sup> The term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8102(2); *L.D.*, 59 ECAB 648 (2008) (a nurse practitioner is not considered a physician as defined under FECA).

<sup>13</sup> See *Linda I. Sprague*, 48 ECAB 386, 389-90 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 5, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 19, 2016  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board